

Third District Court of Appeal

State of Florida, January Term, A.D. 2008

Opinion filed February 6, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-311
Lower Tribunal No. 02-34953

Warren S. Daniels,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Orlando A. Prescott, Judge.

Warren S. Daniels, in proper person.

Bill McCollum, Attorney General, and Juliet S. Fattel, Assistant Attorney General, for appellee.

Before GERSTEN, C.J., and RAMIREZ, and WELLS, JJ.

PER CURIAM.

Warren Daniels (“Daniels”) appeals the trial court’s order denying his post-sentencing pro se motion to withdraw his plea. We affirm.

Daniels filed a motion to withdraw his plea nine months after entering a guilty plea. Daniels claimed his counsel coerced and misadvised him into taking the plea. The record shows that his motion was untimely under Florida Rule of Criminal Procedure 3.170(1). McKnight v. State, 964 So. 2d 803 (Fla. 3d DCA 2007).

Therefore, we affirm, but our affirmance is without prejudice to Daniels filing a sworn motion for post-conviction relief in conformance with Florida Rule of Criminal Procedure 3.850. Douze v. State, 945 So. 2d 653 (Fla. 4th DCA 2007).

Affirmed.